S.B.Cr.Misc. Bail Appli. No.4583/2007
(Shrawanram & Ors. Vs. State of Rajasthan)

Date of order : November 15, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.R.K.Charan, for the petitioners.
Mr.Ashok Upadhyaya, P.P. for the State.

Heard learned counsel for the petitioners, Public Prosecutor for the State and the counsel appearing for the complainant. Perused the order impugned and the police investigation diary.

It is contended by learned counsel for the petitioners that the subject-matter of the property was initially mortgaged by Pooran, brother of the petitioners in favour of the complainant, first informant and thereby the complainant was in possession of the mortgaged property. However, subsequently, Pooran did not redeem the property and sold to the complainant, which they are in possession, whereas the patta stands in the name of Sohan Ram through whom the petitioners claim to be relatives.

Be that as it may, it is an admitted case that it is the first

informant, who was in possession of the property, therefore, it cannot be said that the offence of trespassing and committing the theft is not made out. The matter is at the investigation stage.

The bail application filed by the petitioner under section 438 Cr.P.C. is, therefore, dismissed.

(H.R.PANWAR),J.

m.asif/-